

Equality and Human Rights Commission

Policy paper for England

The equality duties and schools:

Lessons for the future

The equality duties and schools: Lessons for the future

A policy paper for England

Contents

Summary	1
Changing contexts	4
Key findings	6
Pupil outcomes	6
Positive practice	7
Disability Equality Duty (DED)	8
Race Equality Duty (RED)	9
Gender Equality Duty (GED)	10
Policies and action planning	11
Embedding the duties in school improvement/development plans, self-evaluation forms and performance targets for staff	12
Consultation and involvement	12
Making use of information and evidence	14
Awareness of the new PSED	15
Self-reported barriers to implementing the duties	16
Conclusions, the new context and moving forward	17
Proposals for policy and practice	18
1. Collecting and using equality information	18
2. Involvement and consultation	19
3. Training	20
4. Performance management	20
5. Ofsted inspection	21
6. Signposting to existing guidance	23

Summary

The race, disability and gender equality duties ('the duties') which were introduced in 2002, 2006 and 2007 respectively placed a duty on public authorities, including schools, to consider equality, where relevant, in everything they did, encouraging evidence-led decision-making and closer and more responsive relationships between schools, pupils and parents. As a result of these duties, it was hoped, long-term inequalities would be more effectively addressed by schools.

In February 2010, the Equality and Human Rights Commission (the Commission) commissioned IPSOS Mori to conduct a representative survey and qualitative case studies with schools in England and Wales. This was the first systematic attempt to investigate how schools were implementing the three duties in force at the time and to collect baseline evidence about the 'newer' equality areas like sexual orientation, religion or belief, and pregnancy and maternity¹. The research was developed to provide lessons for the future and to inform the implementation of the new single Public Sector Equality Duty (PSED), which brings together the three existing duties and extends them to cover more groups, including those listed above. Thus, while the report refers to the previous duties, the recommendations for the future address the new PSED.

The research indicates that the duties have had a widespread positive influence on the way that schools educate and look after different groups of pupils. There are clear signs that schools understand that they must deliver educational opportunities which meet the needs of different groups of pupils, including boys and girls, children from different ethnic groups and disabled pupils. There is evidence of encouraging work where the duties have helped to embed an effective methodology for identifying and addressing issues which result in improvements in pupil attainment and wellbeing. The duties encourage and reinforce good practice, helping schools to develop and change to meet the

¹ Gender reassignment is also covered, with an expanded definition under the Equality Act 2010, but it is not one of the 'newer' areas because it was provided for in a more limited way by the Gender Equality Duty.

needs of their pupils, improve results and behaviour, and broaden educational experience.

Nevertheless, the report gives some indication that the focus of schools' equality work may not always be directed where it is needed most. The sorts of equality issues which schools tend to see as high priority are not always those which have been identified as critical by national research. For example, notwithstanding some exceptions, when schools were asked to give an example of equality work flowing from the duties, they rarely identified tackling prejudice-related bullying exclusions or stereotyping. The Commission believes this may be due to a number of factors, including lack of awareness of these issues, a belief that equality means ensuring that activities are 'open' to all pupils rather than actively challenging disadvantage, or because schools prefer to address issues which appear to be easier to tackle. It also suggests that schools approach to equality work may not be evidence led. On occasions, there was also a lack of clarity in the responses given as to the drivers for equality work in schools, suggesting that there may be some confusion between the school planning duties (which require schools to develop accessibility plans) and the Disability Equality Duty, and the community cohesion duty on schools and the Race Equality Duty.

Around three-quarters of schools can attribute positive outcomes in their schools for ethnic minority, disabled and male pupils as a result of the previous duties in areas such as attainment, wellbeing and encouraging higher aspirations. The figure for girls is a little less (69 per cent) and schools did not highlight tackling gender stereotyping as a focus for their equality work, notwithstanding the national evidence which indicates that this is a key area.

This research suggests that schools need to be made much more aware of the introduction of the new PSED and what it will mean for them. However, it appears that many schools do have policies on religion or belief and sexual orientation (93 per cent and 63 per cent respectively), but generally these have not yet been translated into specific commitments. Most schools do not have policies on gender

reassignment. They would like more guidance on collecting and using information, and teachers want more training on the PSED throughout their careers. Schools need to become better at engaging with interested parties, particularly their own pupils and governors. If schools are to make best use of the new PSED in improving outcomes, they will need to make specific equality commitments in their main business-planning documents, for example school development plans.

Changing contexts

The public sector equality duties for race, disability and gender were introduced because of a recognition of the deeply rooted institutional nature of inequality. It was recognised there was a need to tackle inequality proactively by putting legal obligations on public authorities, including schools, to pay 'due regard' to the need to achieve certain aims, such as eliminating discrimination and promoting good relations and equality. These aims (known as 'the general duty') became mandatory legal considerations in any decision-making undertaken by public authorities, requiring them to take an evidence-based approach to policymaking by taking into account the interests of legally protected groups. They were supported by specific duties which concerned the processes that public authorities ought to take to implement the general duty, such as information-gathering, consulting and involving protected groups.

There is a wealth of evidence to support the view that inequalities still distort educational outcomes. The Commission's triennial review, *How Fair is Britain?*, identified persistent educational inequalities. These included substantial gender segregation in subject choice and very low attainment for disabled children (not just those with Special Education Needs (SEN)). While attainment gaps between different ethnic groups are narrowing, the report noted that deeply entrenched inequalities persist, particularly for Gypsy and Traveller children. Identity-based bullying was also a concern, as were levels of exclusions from schools for some groups. Further evidence of this was presented in the Commission's research report *Prevention and Response to Identity-based Bullying among Local Authorities in England, Scotland and Wales* (Tippett et al, 2011)², which found that such bullying is widespread. It recommended that a duty to record and report incidents of identity-based bullying should be introduced and schools should adopt a whole school approach to tackling it, supported by practically based guidance.

² See www.equalityhumanrights.com/uploaded_files/research/64_identity_based_bullying.pdf

Introduced by the Equality Act 2010, an expanded PSED covering nine 'protected characteristics' came into force on 5 April 2011. The PSED for pupils in schools brings together the previous three duties and also covers gender reassignment³, pregnancy and maternity, religion or belief, and sexual orientation.

In addition, the Equality Act introduces new positive action provisions for schools which enables them to take proportionate action to achieve fuller and more effective equality outcomes for members of pupil groups covered by the PSED who are socially or economically disadvantaged or excluded, or who otherwise face the consequences of past or present discrimination or disadvantage. Schools may wish to consider using positive action to help them comply with the PSED⁴.

At the time of writing, the statutory and policy context for schools and their inspection arrangements are also changing. The Academies Act 2010 provided a statutory framework for the creation of more Academy schools in England, including 'free schools' (that is, 'additional schools' set up by the voluntary sector or local communities on application to the Secretary of State). The Education Bill currently before Parliament provides for an extension of the English Academy schools programme, significant changes to exclusion appeals (so that review panels will no longer be able to order schools to reinstate excluded pupils), and OFSTED inspections. In particular, the OFSTED inspection framework will be simplified, although inspections will focus on the needs of different groups, including disabled and SEN pupils. Also, the school Self-Evaluation Form (SEF) used by schools will be replaced in September 2010 with a system in which they can choose their own format for reporting on performance standards.

Further information about the new PSED and the education provisions of the Equality Act 2010 can be found on the Commission website⁵.

³ Although there was some coverage under the Gender Equality Duty (GED), the definition was widened by the Equality Act 2010 section 7. The PSED does not apply to age in relation to pupils, although it does in relation to staff.

⁴ <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-education-providers-schools/introduction/positive-action/>

⁵ <http://www.equalityhumanrights.com/new-public-sector-equality-duty-guidance/>

Key findings

The report surveyed a representative sample of schools in England and Wales through telephone interviews. Both primary and secondary schools were sampled, along with special schools and Pupil Referral Units (PRUs). There was a special Academy school booster to obtain reliable information about this sub-group. Results were also disaggregated for faith and non-faith schools and schools in England and Wales.

The survey was not intended to be an audit of schools' compliance with the duties, but rather to explore the influence that the duties have had on schools improving pupil outcomes. Therefore schools were asked if they had schemes (or policies, as they are referred to under the Race Equality Duty) with action plans and measurable targets. They were also asked about the sort of engagement they had with interested parties such as pupils, parents and governors. This underlying element of co-production in the duties is important for all protected groups, but especially so for disabled people.

Pupil outcomes

In addition, the survey and follow-up qualitative work explored schools' use of evidence. Identifying the link with pupil outcomes was key to the research; therefore, the survey encouraged schools to say what they were doing in response to the duties. It also looked at the degree to which equality commitments which flowed from the duties were embedded into school business planning documents, since this is key to effective implementation of equality commitments.

The majority of schools could identify improved outcomes for pupils. Almost three-quarters of schools (73 per cent) were able to attribute an improvement in ethnic minority pupil outcomes to the Race Equality Duty; this is lower than the equivalent findings for disabled pupils (77 per cent) and male pupils (75 per cent) but slightly higher than that for female pupils (69 per cent). Most schools say that because of the duties they are able to demonstrate improved outcomes for pupils from

protected groups in relation to areas such as attainment, wellbeing and encouraging higher aspirations.

Compared to the race and disability equality duties, work on the gender duty appears to be least developed in schools. Schools are demonstrating improved participation in sport for girls, and improved attainment for boys, though were less likely to identify tackling gender segregation and stereotyping as the main focus of their gender equality work; one of the key areas of inequality in the education system. The findings indicate that non-faith schools were more likely than faith schools to be taking any action on gender equality that contributes to positive pupil outcomes (85 per cent versus 72 per cent respectively)⁶.

For disability, schools reported improved pupil outcomes in relation to increased access to school facilities/resources; improvements in pupils' wellbeing; disabled pupils feeling more valued, and increased key stage and subject attainment.

For race, schools reported improved pupil outcomes in relation to feeling more valued; improved attainment at key stages and in subjects; better engagement and higher aspirations; narrowed gaps in performance; increased wellbeing, and reduced numbers of racist incidents.

For gender, schools reported different outcomes for male and female pupils. For male pupils, schools reported improved subject attainment, narrower gaps in performance and better engagement/higher aspirations for male pupils. For female pupils, schools reported increased rates of participation in sports; improved subject attainment, wellbeing, self-esteem and better engagement/higher aspirations.

Positive practice

Where the term 'positive practice' is used, it refers to initiatives which were self-identified by schools. The term should not be seen as a validation of these initiatives by the Commission.

⁶ Small base size for faith schools (53), indicative finding.

Schools were able to cite a wide range of positive practice emerging from their work on the duties that has contributed to measurable outcomes for pupils.

Disability Equality Duty (DED)

Examples of positive practice include improving the accessibility of curricular and extracurricular activities, training staff and introducing teaching/encouraging awareness about disability. Over half of schools (54 per cent) said they had made school facilities suitable for disabled pupils as an example of positive practice (or have plans to do so, though in any event all schools have a duty to do so under the Disability Discrimination Act (DDA) planning duties). Individual schools are demonstrating what can be done where the commitment to take action exists.

Using the DED to provide a framework for action

A secondary school in the south east with 1,600 pupils wanted to improve the accessibility of the school's provision for disabled students. In order to tackle the accessibility issue, the school felt they needed to rewrite their disability equality scheme and action plan. As a result, the school's Special Educational Needs Co-ordinator (SENCO), supported by the Local Education Authority and the school's principal, conducted a wide-ranging review of existing legislative and policy guidance related to equality for disabled pupils (for example, the equality duties, the Disability Discrimination Act and the Every Child Matters framework). Following the review, the school felt able to use the duties as a framework to become more focused on making the learning environment and experience more appropriate to the existing and future learning needs of disabled pupils.

'That's how [the duties] had an effect on us - it's given us a framework that we can use in an appropriate way to analyse what we already had and look at where the gaps might be. If you're just left on your own without that structure you do the best you can but you are not necessarily sure what it's meant to be. The duties have

enabled us to what we look at what we have got and think about in a different way and that speeds up that process.'

Vice principal, secondary school

As a result of the actions which have been taken, disabled pupils feel they and their peers are now being better provided for. In addition, the SENCO reported that more disabled pupils are willing to approach staff to provide feedback on issues which affect them within the school.

Race Equality Duty (RED)

In terms of positive practice arising from the RED, schools were most likely to say that they have worked to raise awareness, tolerance and understanding around race, and that they hold multicultural days, conferences and/or assemblies. They also mentioned forging links with schools and communities overseas, using interpreters, building links with parents, monitoring progress and dealing with racist incidents. However, the examples often show an overlap between the RED and the community cohesion duty, and as a result it is not always clear what the key driver is.

Using the RED to reduce racist incidents and improve attainment

A London comprehensive with 1,500 pupils embarked on a programme of activity designed to tackle and deal effectively with racial incidents. One of the first actions the school pursued was to develop a race equality policy. The school invited feedback from parents of black and ethnic minority students on the draft policy. Through focus groups, parents were presented with a draft version of the race equality policy to review and to provide feedback on.

'We felt that you know you can run off a policy can't you but it's got to be relevant to those people for whom it's written, so we were getting the impressions from people who know about racism, discrimination and disadvantage so that's how we formulate our policy.'

Assistant headteacher, secondary school

Through a mixture of activities - such as assemblies, multicultural religious celebrations and lessons in social studies, personal, social and health education (PSHE) and religious education - pupils are educated about racial discrimination and racial equality.

The school believes that the zero-tolerance policy has helped create an atmosphere within the school that allows all pupils regardless of their background to feel they can focus on their learning and improve academically. This has been evidenced by the school's improving GCSE examination performance; in 2009, 65 per cent of Year 11 pupils achieved 5 A*-C GCSEs (including mathematics and English) compared with 57 per cent of Year 11 pupils in the previous year.

Gender Equality Duty (GED)

In terms of positive practice arising from the Gender Equality Duty, schools were most likely to say they ensure that clubs, activities, subjects and/or sports are open to both boys and girls. They also mentioned monitoring progress, improving boys' learning, adapting the curriculum to meet the needs of boys and encouraging pupils to take up non-traditional subjects and options.

Tackling gender stereotyping

A special school in the north west of England promoted independent living and tackled gender stereotyping by introducing a vocational programme leading to nationally recognised qualifications in subjects as diverse as bricklaying and hairdressing. To tackle stereotyping, the school ensured that male teachers led the hairdressing courses and female teachers led in bricklaying and joinery. These steps were embedded in the school's equality action plan and school development plan.

'The duties give us a prompt to make sure we are doing as much as we can.'

Headteacher, special school

However, in the survey, most schools did not highlight equality practice on tackling stereotyping in respect of subject choice or addressing the causes of the gender pay gap, or violence against women and girls, despite the evidence from other sources⁷ of the importance of these issues. This raises a number of questions as to why schools are not more frequently pinpointing these issues as the focus of their positive practice. Is it because they are not aware of them? Is it because these problems are perceived as too intractable or problematic to address? Are they being led to believe by local and national sources that other key issues (such as girls' participation in team sports) are more important?

Policies and action planning

The research found that schools with policies and action plans with set targets for the duties were more likely to develop positive practice and attribute improvements to pupil outcomes. A key requirement of the equality duties has been to prepare and publish a policy or equality scheme for race, disability and gender. They should signal the school's commitment to equality and ensure that priorities for action are established. Only 3 per cent of schools reported they did not have policies/schemes for race, disability and gender.

Schools were significantly more likely to have an action plan with set targets specifically around meeting the Disability Equality Duty (79 per cent) than an action plan with set targets for race equality (52 per cent) or an action plan with set targets for gender equality (40 per cent). Only three in 10 schools (31 per cent) had an equality policy/scheme *and* action plan with set targets for all three equality duties.

The research included a sample of Academies – and those that responded to the survey appeared to have a greater tendency to plan their equality work. They are much more likely to have a gender equality action plan with set targets (72 per cent as opposed to 41 per cent for

⁷ These sources include the Commission's triennial review, its Staying On research and the observations on the UK of the United Nations Committee for the Elimination of all Discrimination Against Women as well as OFSTED's report: *Girls' Career Aspirations* 12 April 2011.

non Academy secondary schools) and a race equality policy with an action plan with set targets (69 per cent as opposed to 52 per cent)⁸.

Embedding the duties in school improvement/development plans, self-evaluation forms and performance targets for staff

A key indicator of progress on the equality duties is how far they are embedded in wider school actions like improvement plans, self-evaluation forms and the setting of performance targets for staff.

Effective self-evaluation is extremely important for school improvement. OFSTED's Self-Evaluation Form enables schools to follow the evaluation schedule used in inspections, so that they can make use of the guidance and identify what they need to do to improve. This is one way of ensuring that addressing inequality is central to school improvement.

The equality duties are an explicit feature of self-evaluation forms in 85 per cent of schools.

A School Improvement or Development Plan outlines the main priorities that school stakeholders choose to address in order to raise standards. This plan breaks down each of the priorities by identifying actions, resources, responsibilities, timescales and success criteria. Almost seven in 10 (69 per cent) schools said that the equality duties were an explicit feature of their school development/improvement plans.

For around half of schools, the equality duties were an explicit feature in setting performance management targets and objectives for some/all senior leaders (50 per cent) and teaching staff (52 per cent). This compares to 45 per cent for support staff.

Consultation and involvement

Consulting and involving key groups of people inside and outside schools was a specific requirement for schools under the old duties and helps to underpin equality work in schools. In the survey, schools were

⁸ Caution. Small base size (29); indicative findings.

asked who they had consulted (see Table 1). The minority (42 per cent) said pupils, with the majority concerned with consulting teaching staff, governors and parents.

Table 1 People consulted in developing the equality duties

	All schools (%)
Teaching staff	67
Governors	65
Parents/carers	59
Support staff	48
Pupils	42
Local authority	28

Base: all schools (503)

In the Disability Equality Duty, schools were expected to involve disabled people when developing their disability equality policy and/or scheme. Based on the disability equality principle of ‘nothing about us, without us’, this is a key process to facilitate the implementation of meaningful and relevant improvements for disabled people, based on their status as active citizens, not as passive recipients of ‘assistance’. Of the schools that were specifically asked whether they had involved disabled people⁹, two-thirds (67 per cent) had involved at least one group of disabled people (or their representatives) whereas just under a quarter (23 per cent) had not. The most commonly involved groups, by a significant margin, were parents/carers of disabled pupils (50 per cent) and disabled pupils or ex-pupils (40 per cent). Given that the obligation was on schools to involve disabled people in the development of disability equality schemes, this result may suggest that, in the majority of cases, this did not happen.

⁹ Due to a longer questionnaire than anticipated during fieldwork, this question was only asked of around two thirds of schools interviewed.

Making use of information and evidence

Depending on the duty in question, schools were either required or advised to gather and use information to gauge the effect of their policies and practices on pupils and to set equality objectives and/or action plans to address key equality issues. In the telephone survey, 83 schools were asked how effectively they were doing this.

Almost nine in 10 schools interviewed (87 per cent) believed that they were using information and evidence effectively to identify priorities for action for each of the equality duties, and over nine in 10 (92 per cent) believed that they were doing this effectively to monitor progress towards improving equality-related outcomes. Schools were significantly more likely to say that their school is *very* effective in using information and evidence for monitoring progress towards equality-related outcomes than for identifying priorities for action for each of the equality duties (44 per cent versus 29 per cent respectively).

The qualitative research findings showed that gathering information and evidence, and monitoring progress of ethnic minority and disabled pupils, and of boys and girls was a common process among schools – and often in response to the equality duties. This evidence is then benchmarked with comparable local and national data to understand the school's performance and gender-related equality issues. However, when asked specifically about their duty-related guidance needs, schools were most likely to agree that they needed better guidance on how to design and deliver training related to the equality duties (55 per cent gave this response), followed by how to collect appropriate and relevant evidence (49 per cent), and guidance on the duties generally and what they mean for schools (49 per cent). This seems to suggest that schools may not feel as confident about collecting or using evidence for the purposes of the PSED as they sometimes say they are.

Awareness of the new PSED

In the summer term of 2010, the majority of schools (62 per cent) were unaware of the new Public Sector Equality Duty and the range of protected equality groups it covers. Notwithstanding this, many schools are addressing the newer strands. They were significantly more likely to say that religion or belief (93 per cent) and sexual orientation (68 per cent) were in their equality policies/schemes than gender reassignment (29 per cent) and pregnancy and maternity (26 per cent). Primary schools were less likely than secondary schools to have developed policies on these issues. However, the majority of schools with religion or belief, pregnancy and maternity, gender reassignment and/or sexual orientation in their equality policy/scheme had not set specific targets for these issues. They were least likely to have set targets to improve equality related to gender reassignment and sexual orientation. Those that had set targets highlighted anti-bullying work, clamping down on homophobic language and behaviour, school trips to places of worship, and teaching pupils about their rights and responsibilities.

Self-reported barriers to implementing the duties

Schools were most likely to say that the main barriers to fulfilling the equality duties were a lack of time and a lack of money. A substantial majority believed that additional training was needed to support the implementation of the duties, both for new entrants to the profession and established teachers, including senior leaders. When asked specifically about duty-related guidance needs, schools were most likely to say that they needed better guidance on how to design and deliver training related to the equality duties, followed by how to collect appropriate and relevant evidence and then general guidance for the duties and their implications for schools. Given the amount of the tailored general guidance in particular, it seems likely that schools are not aware of the material which is already available, particularly from the Commission.

Conclusions, the new context and moving forward

Have schools implemented the duties? The picture is mixed. The report indicates that schools are on a continuum in their implementation of the duties from those that are evidence led/systematic and embedded in their approach, to those that have added on policies and may undertake more ad hoc actions. The schools that are most successful in raising the attainment and wellbeing of protected groups are those which are looking at their evidence, identifying issues and setting themselves targets. However, schools are aware that they could do better.

There is little evidence of widespread involvement of disabled pupils in developing equality schemes. The results of the survey which concern consultation and involvement indicate that schools may not be engaging parents as much as might be desirable either nor are they always keeping governors informed, despite governors' responsibility for ensuring that schools meet all their statutory duties.

However, it should also be borne in mind that only a tiny proportion of schools say they have done nothing in response to the duties. Over two-thirds of schools have put equalities work related to the duties in their school development plans. While many schools may be seen as falling short of formal compliance with the duties, there is nevertheless lots of work going on related to the duties. The survey suggests that schools are not struggling to comply with the letter of the law because they do not care about equality, it is because often they do not yet fully understand their obligations to undertake evidence-led policymaking.

The survey results illustrate that implementing the duties can make schools more effective and improve pupil outcomes. There is strong evidence that embracing the duties enhances school performance. It also illustrates the need for schools to develop greater understanding of equality issues, their legal obligations and the implications for practice. For instance, other equality research indicates that gender stereotyping in subject and career choice is a key issue for schools to tackle in order to improve the life chances of girls and women, but schools do not

appear to be prioritising action in this area. Similarly, in respect of race equality, one of the key issues is reducing the numbers of exclusions of pupils from ethnic minority backgrounds and in relation to disability, a key issue is how to address bullying and harassment, but schools highlight action in other areas.

In future, schools will also need to do much more work to embed equality into what they do in respect to newer areas like sexual orientation, gender reassignment, and maternity and pregnancy. At the time the survey was conducted, a significant proportion had not really started to think about these issues, and seemed unaware of the changes that have now been ushered in by the Public Sector Equality Duty.

Proposals for policy and practice

The main message for policymakers and leaders in education is that schools and pupil outcomes can be improved through the new PSED. This message could be disseminated by the Department for Education, and also by local authorities, to have maximum effect. Without the sort of evidence-based policymaking the PSED supports, schools will struggle to raise standards over the next few years when there are fewer resources available. The PSED needs to be seen as a way of embedding positive practices in the management of schools and enhancing their capacity to improve. But schools also need to continue to get better at implementing the PSED. What the overwhelming majority of schools require is encouragement and support to use the PSED more consistently to improve pupil outcomes.

1. Collecting and using equality information

While there are indications that schools see themselves as very effective at identifying priorities for action, there is a widely expressed need for guidance on how to collect equality information in schools, and more guidance on the duties. There are also indications that schools want more support in monitoring progress towards equality-related outcomes. Guidance on information collecting and monitoring needs to be tailored

to schools, and strongly promoted towards them if they are to make use of it.

Implications for policy and practice

- The Commission to work with the Department of Education (DfE) to produce influential guidance for schools which shows how the PSED can help deliver better attainment and behaviour by targeting resources on areas of greatest need through monitoring and benchmarking.
- DfE and Ofsted to ensure Raiseonline¹⁰ provides ways of recording data which helps schools meet their legal obligations in relation to the PSED and their pupils.
- Government, as part of its new approach to tackling poor behaviour and bullying, to consider introducing a statutory requirement to record and report incidents of prejudice-based bullying.

2. Involvement and consultation

Schools should be aiming to engage with more people from protected groups, not least their own pupils. In particular, schools could be encouraged to focus more on engaging pupils from protected groups in the development of policies. Schools also require more assistance with engaging with pupils, parents and civil society (including on occasions their own governing bodies), particularly when they are developing policies and reflecting on their practices.

Implications for policy and practice

- Local authorities can help facilitate school engagement with different groups using their connections with voluntary sector groups and through governor training programmes.

¹⁰ This is an amalgam of two tracking systems: one from the Department and one from OFSTED.

3. Training

There needs to be more training in the equality duties for teachers both in the initial training stage and through continuing professional development (CPD). In addition, schools would welcome more guidance on how to design and deliver training related to the equality duties.

Any training about the new PSED needs to address more than merely the legal and administrative requirements of the new duty. Teachers need to become more aware of key equality issues in education, the evidence which has led to their identification and examples of good practice in addressing them.

Implications for policy and practice

- The Department for Education and the Training and Development Agency for Schools could ensure that initial teacher training includes a unit of study on equality issues, current legislation and teachers' responsibilities.
- The Review of Teachers' Standards could require knowledge, understanding and skills to deliver improved equality outcomes.
- Headteacher training, especially the National Professional Qualification for Headship, as provided by the National College for School Leadership, could include a unit of study on equality issues, current legislation and headteacher/governor responsibilities.
- Continuing professional development for teachers could include keeping them up-to-date with their responsibilities and good practice in meeting the duty.
- Local authorities to consider developing a 'train the trainer' approach to the PSED in schools.
- Training offered to the governing body by Local Authorities could include information on the PSED and the legal requirements on governing bodies.

4. Performance management

There is considerable scope to use performance management targets/objectives to drive forward equality work based on the PSED.

The case studies indicated that frontline staff members are not always aware that equality work arose because of the duties. If PSED-related work becomes a feature of every teacher's objectives, it is likely to be understood more widely, and school managers could seek to do this.

The report's case studies also demonstrate that leadership is a vital driver of duty-related equality work. Members of school governing bodies who set the performance management framework for heads ought to understand that heads are likely to have at least one equality objective related to the PSED.

Implications for policy and practice

- Performance management for the headteacher will be improved if it includes the equalities priorities from their School Improvement Plan and relates to the National Standards for Headteachers.
- Performance management for all other teachers will be improved if it includes equality priorities relevant to their role and relates to the Professional Standards for Teachers.

5. Ofsted inspection

A crucial way in which the PSED can be mainstreamed is through school inspection. The school self-evaluation form plays an important role in focusing schools' attention on pupils from protected groups. If the PSED is going to drive improvements for most pupils in schools, it is vital that future inspections focus on the effectiveness of schools' approaches to meeting the needs of the different groups of pupils covered by the duties. The new Education Bill provides a statutory underpinning for this¹¹, although only pupils with SEN and disabled pupils are specifically referenced on the face of the Bill. However, it also effectively abolishes the limiting judgment on equality in Ofsted's current inspection framework.

Ofsted is itself covered by the PSED obligations in relation to its functions. Given the potential for connecting the PSED with the

¹¹ Education Bill section 40.

proposed inspection provisions in the Education Bill, Ofsted could mainstream equality in all four proposed ‘pillars of inspection’: judging achievement, pupils’ behaviour and safety, the quality of teaching, and the effectiveness of teaching and management (where it already proposes that promoting equality of opportunity is a discreet judgment). Its inspection of pupil achievement could take into account the needs of learners from protected groups (subject to considerations of privacy and appropriateness regarding monitoring sexual orientation and gender reassignment¹²) and behaviour and safety could scrutinise exclusions and identity-based bullying. The focus would be on the quality of teaching and learning for every group of pupils, rather than compliance with the general or specific duties, but delivery of the PSED is integral to better outcomes, so looking at how the school is performing for different groups of pupils and the quality of its information and engagement with them is vital in judging how effective they are. It is also important to retain an equality element in the ‘limiting judgment’ about the overall effectiveness of the school, so there is no regression from the current position.

Implications for policy and practice

- Ofsted to report on how well a school provides for different groups of pupils with protected characteristics under the Equality Act (EA) 2010.
- In reporting and making judgments on the quality of education, including in relation to the ‘four pillars’ of inspection, the effective implementation of the PSED would be assisted if Ofsted reported on equality outcomes for different groups of pupils with protected characteristics under the EA 2010.
- Similarly, it would be helpful when making the judgment on the overall effectiveness of a school, if outcomes for pupils with protected characteristics were taken into account.

¹² See the Commission’s *Equality Information and the Equality Duty: A guide for public authorities*, which identifies issues around monitoring for some of the protected characteristics: www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/information_guidance.pdf

- To assist with inspections, schools could include information gathered to demonstrate their implementation of the PSED in any self-evaluation presented to Ofsted inspectors

6. Signposting to existing guidance

In relation to guidance which schools are seeking on the duties, it is not entirely clear from the survey whether they are aware of the material which is available, particularly on the Equality and Human Rights Commission website¹³.

Schools will also find useful advice in the Equality Act non-statutory guidance for schools and forthcoming schools Code of Practice, including on the new positive action provisions which can assist schools in taking action to meet the new PSED.

Implications for policy and practice

- The Department for Education could ensure that schools are effectively signposted to useful resources about the PSED and addressing inequality in education.

¹³ See www.equalityhumanrights.com/advice-and-guidance/guidance-for-education-providers-schools/

See also www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/equality-act-guidance-downloads/

See also www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/

Contacts

England

Equality and Human Rights Commission Helpline

FREEPOST RRLG-GHUX-CTR

Arndale House, The Arndale Centre, Manchester M4 3AQ

Main number: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

Scotland

Equality and Human Rights Commission Helpline

FREEPOST RSAB-YJEJ-EXUJ

The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Main number: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

Wales

Equality and Human Rights Commission Helpline

FREEPOST RRLR-UEYB-UYZL

3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Main number: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

Helpline opening times:

Monday to Friday 8am–6pm.

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary.

Calls may be monitored for training and quality purposes.

Interpreting service available through Language Line, when you call our helplines.

If you require this publication in an alternative format and/or language please contact the relevant helpline to discuss your needs. All publications are also available to download and order in a variety of formats from our website.
www.equalityhumanrights.com

www.equalityhumanrights.com

©Equality and Human Rights Commission
Published June 2011
ISBN 978 1 84206 390 3

The logo consists of two horizontal white bars stacked vertically.

**Equality and
Human Rights**
Commission